



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

February 11, 2020

Memorandum for: Deputy Commissioner, Trials

Re: **Detective Matthew Savage**
Tax Registry No. 926077
113 Detective Squad
Disciplinary Case No. 2018-19270

Detective Richard Scholl
Tax Registry No. 929149
49 Detective Squad
Disciplinary Case No. 2018-19271

The above named member of the service appeared before Assistant Deputy Commissioner Nancy R. Ryan on September 10, 2019, and was charged with the following:

DISCIPLINARY CASE NO. 2018-19270

1. Said Detective Matthew Savage, while assigned to the Central Investigations Division, on or about and between September 1, 2017 and February 28, 2018, was late to or left early from his assignment without permission or police necessity on approximately fifty-four (54) occasions, thereby resulting in improper payments for approximately eight hundred forty-one (841) minutes in overtime and six hundred ninety-three (693) minutes in straight-time. *(As amended)*

P.G. 203-05, Page 1, Paragraph 1, 2

**PERFORMANCE ON DUTY –
GENERAL**

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

P.G. 206-03, Page 1, Paragraph 14

**VIOLATIONS SUBJECT TO
COMMAND DISCIPLINE**

P.G. 203-20, Page 1, Paragraph 1

AUTHORIZED LEAVE

P.G. 205-17

OVERTIME

DETECTIVE MATTHEW SAVAGE
DETECTIVE RICHARD SCHOLL

DISCIPLINARY CASE NO. 2018-19270
DISCIPLINARY CASE NO. 2018-19271

2. Said Detective Matthew Savage, while assigned to the Central Investigations Division, on or about and between September 1, 2017 and February 28, 2018, on approximately twenty-eight (28) occasions, wrongfully made inaccurate entries in Department records in that said Detective improperly submitted overtime slips containing inaccurate information.

P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY –
GENERAL**

P.G. 205-17

OVERTIME

3. Said Detective Matthew Savage, while assigned to the Central Investigations Division, on or about and between September 1, 2017 and February 28, 2018, on approximately fifty-nine (59) dates, wrongfully made inaccurate entries in a Sign-In/Sign-Out Movement Log. *(As amended)*

P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY –
GENERAL**

DISCIPLINARY CASE NO. 2018-19271

1. Said Detective Richard Scholl, while assigned to the Central Investigations Division, on or about and between September 1, 2017 and February 28, 2018, was late to or left early from his assignment without permission or police necessity on approximately forty-four (44) occasions, thereby resulting in improper payments for approximately nine hundred forty-three (943) minutes in overtime and five hundred forty-four (544) minutes in straight-time.

P.G. 203-05, Page 1, Paragraph 1, 2

**PERFORMANCE ON DUTY –
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OVERTIME

2. Said Detective Richard Scholl, while assigned to the Central Investigations Division, on or about and between September 1, 2017 and February 28, 2018, on approximately twenty-three (23) occasions, wrongfully made inaccurate entries in Department records in that said Detective improperly submitted overtime slips containing inaccurate information.

P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY –
GENERAL**

P.G. 205-17

OVERTIME

3. Said Detective Richard Scholl, while assigned to the Central Investigations Division, on or about and between September 1, 2017 and February 28, 2018, on approximately fifty-two (52) occasions, wrongfully made inaccurate entries in a Sign-In/Sign-Out Movement Log.

P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY –
GENERAL**

In a Memorandum dated October 7, 2019, Assistant Deputy Commissioner Nancy R. Ryan found Detective Matthew Savage and Detective Richard Scholl Guilty of all specifications, having pled Guilty in Disciplinary Case Nos. 2018-19270 and 2018-19271, respectively.

Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalties for both Detective Savage and Detective Scholl. In light of the cumulative misconduct, considering the number of incidents, the amount of total time at issue, and the seriousness of the underlying actions, dismissal probation is warranted in these cases. Further, as in previous, similar cases, restitution and deductions from the Detectives' time and leave balances are appropriate.

It is therefore directed that Detective Savage be offered a post-trial negotiated settlement agreement in which he shall forfeit thirty (30) vacation days, be placed on one (1) year dismissal probation, pay restitution in the amount of one thousand nineteen dollars and thirty-nine cents (\$1,019.39), and have fourteen hours and nine minutes (14:09) deducted from his time and leave balances, as a disciplinary penalty.

Detective Scholl is to be offered a post-trial negotiated settlement agreement in which he shall forfeit thirty (30) vacation days, be placed on one (1) year dismissal probation, pay restitution in the amount of one thousand sixty-five dollars and thirty-six cents (\$1,065.36), and have nine hours and four minutes (9:04) deducted from his time and leave balances, as a disciplinary penalty.

DETECTIVE MATTHEW SAVAGE
DETECTIVE RICHARD SCHOLL

DISCIPLINARY CASE NO. 2018-19270
DISCIPLINARY CASE NO. 2018-19271

If Detective Savage or Detective Scholl do not agree to the terms of their respective post-trial negotiated agreements as noted, this Office is to be notified without delay.


Dennis F. Shea
Police Commissioner



POLICE DEPARTMENT

October 7, 2019

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In the Matter of the Charges and Specifications	:	Case Nos.
- against -	:	
Detective Matthew Savage	:	2018-19270
Tax Registry No. 926077	:	
113 Detective Squad	:	
Detective Richard Scholl	:	2018-19271
Tax Registry No. 929149	:	
49 Detective Squad	:	

-----X

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Nancy R. Ryan
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Samuel Yee, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: James Moschella, Esq.
Karasyk & Moschella, LLP
233 Broadway – Suite 2340
New York, NY 10279

To:

HONORABLE JAMES P. O'NEILL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

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Website: <http://nyc.gov/nypd>

CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2018-18861

1. Said Detective Matthew Savage, while assigned to the Central Investigations Division, on or about and between September 1, 2017 and February 28, 2018, was late to or left early from his assignment without permission or police necessity on approximately fifty-four (54) occasions, thereby resulting in improper payments for approximately eight hundred forty-one (841) minutes in overtime and six hundred ninety three (693) minutes in straight-time. *(As amended)*

P.G. 203-05, Page 1, Paragraph 1, 2 PERFORMANCE ON DUTY - GENERAL
GENERAL REGULATIONS

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED
CONDUCT
GENERAL REGULATIONS

P.G. 206-03, Page 1, Paragraph 14 VIOLATIONS SUBJECT TO COMMAND
DISCIPLINE
DISCIPLINARY MATTERS

P.G. 203-20, Page 1, Paragraph 1 AUTHORIZED LEAVE
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P.G. 205-17 OVERTIME
PERSONNEL MATTERS

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P.G. 203-05, Page 1, Paragraph 4 PERFORMANCE ON DUTY - GENERAL
GENERAL REGULATIONS

Disciplinary Case No. 2018-19271

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GENERAL REGULATIONS

REPORT AND RECOMMENDATION

The above-named members of the Department appeared before me on September 10, 2019 and entered pleas of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find both Respondents Guilty as they have pleaded guilty and recommend that they each forfeit 30 vacation days.

SUMMARY OF EVIDENCE IN MITIGATION

In *Disciplinary Case Nos. 2018-19270 & 2018-19271*, Respondents have pleaded guilty. The Department has recommended a penalty for each Respondent to include the loss of 30 vacation days, one year dismissal probation, a deduction from time and leave balances and restitution. While both Respondents, through their counsel, acknowledged that certain penalties would be appropriate, they testified for the purpose of mitigating any such penalty primarily so that the penalty would not include one-year dismissal probation.

The Department did not present any witnesses in this mitigation. However, the Department Advocate indicated in opening that the charges for both Respondents stemmed from an investigation done by IAB after it received an allegation of time abuse against a sergeant who, at the time, was Respondent Savage's supervisor in the Central Investigation Division ("CID").

Respondent Savage testified that he has been employed by the Department for 19 and a half years and has never been the subject of any previous formal discipline. During the time period from September 1, 2017 to February 28, 2018, he was assigned to the CID. His office

was in room 1200 at One Police Plaza ("1PP"). Respondent Savage knows Respondent Scholl, but they did not work in the same unit, had different roll calls and had a different supervisor. Respondent Savage's supervisor was Sergeant Nolan Padilla. (Tr. 13-15) Respondent did not have a set daily time schedule. He mostly drove to work. He did not have access to the headquarters parking garage and could only park in the annex after 1400 hours. When he drove to work he had to search for a street parking spot which sometimes required "quite some time." Respondent Savage testified that it was "understood" that while they were driving around looking for a parking spot they would "let the boss know" they were here and were looking for a parking spot. After he parked, he would use his ID to enter 1PP through a turnstile on either the street or lobby level. Respondent Savage further testified that he never received any instructions from Sgt. Padilla or anyone else that his start time was the time he scanned into the building. Once Respondent Savage got to room 1200 he would sign into the roll call listing the time he believed that he arrived at, or near, the building. Respondent Savage considered he was present at work when he was near the building trying to find parking or if he stopped outside to discuss something with a colleague. (Tr. 16-20, 25)

Respondent Savage now accepts that he was actually late for the start of his tour on 54 occasions. On 28 of those dates, he performed unscheduled overtime on the back end of his tour. He did not know he would be doing overtime at the beginning of his tours. When he filled out his overtime slips he put down his start time as the time he signed in on the roll call. On each of these 28 days when he performed overtime, he did in fact perform all of the overtime hours he submitted for. Respondent Savage never considered he was stealing any overtime from the Department because he worked the overtime from the end of his tour to the time when he indicated he completed the overtime. Respondent Savage also never considered, nor was it ever

discussed with anyone, that he should adjust his tour start time, since it was an "understood agreement" that his start time was the time he was in the area. As a result of the investigation into his time, Respondent was transferred out of 1PP to the 113 Detective Squad. (Tr. 21-26)

Respondent Scholl testified that he has been a member of the NYPD for over 18 years and has never been the subject of any charges and specifications. During the time period noted in the specifications, Respondent Scholl was assigned to the Office of the Chief of Detectives under the CID. He knows Respondent Savage, but did not work in the same unit with him during this time. (Tr. 36-38) Respondent Scholl's schedule was mainly from 1000 to 1800 hours, but sometimes it varied depending on the needs of the Department. He regularly commuted to work at 1PP from [REDACTED] in his private car and would normally park in an authorized police parking spot. He did not have access to the executive garage or the annex parking. Parking near 1PP was difficult and normally Respondent Scholl would end up in an authorized police parking area, which was a 20-minute walk away from 1PP. When he got to his office he would sign in at the time that he arrived at the police designated parking area since that is when he believed his tour had begun. (Tr. 41-44)

Respondent Scholl admitted that he was actually late on 44 occasions and on 23 of those occasions he performed overtime. The overtime was always unscheduled and Respondent Scholl would not know that he would be performing overtime at the time he signed in in the morning. When he worked overtime, he would submit an overtime slip using the start time that he used to sign in, which would be the time that he arrived in the vicinity of 1PP, as opposed to the time that he arrived at his actual office. Respondent Scholl testified that he did in fact perform all of the overtime hours he submitted slips for. He acknowledged that for the first eight hours and thirty-three minutes of his tour he was to be paid at straight time. He further acknowledged that

for some of the overtime periods he claimed he should have been paid at straight time because he was actually late to the start of his tours. (Tr. 47-49, 60)

Respondent Scholl testified he never intended to steal any overtime or get paid for any time he was not actually working for the NYPD. He apologized to the court and said he was embarrassed to even be in court. He believes he has always served the Department with the utmost integrity and is very disturbed that his integrity has come into question. He never thought at the time that he was being inaccurate when he listed his start times as the time he arrived at authorized NYPD parking areas. As a result of this investigation he lost his position in the Office of the Chief of Detectives. (Tr. 50-54)

PENALTY

In order to determine an appropriate penalty, Respondents' service records were examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent Savage was appointed to the Department on March 1, 2000 and Respondent Scholl was appointed to the Department on July 2, 2001. Information from their personnel records that was considered in making this penalty recommendation is contained in attached confidential memoranda.

Defense Counsel has cited to the case pertaining to Respondent Savage's supervisor, *Disciplinary Case No. 2018-19223* (Oct. 25, 2018), which arose out of similar allegations. While the supervisor was only late on six occasions, which is a smaller number than either Respondent here, and the total restitution requested was lower, the supervisor had a similar number of inaccurate overtime entries as Respondents. He had 26 inaccurate overtime slips; Respondent Savage had 28 inaccurate overtime slips and Respondent Scholl had 23. The supervisor negotiated a plea of the forfeiture of 15 vacation days, forfeiture of 114 minutes from

pensionable time and monetary restitution. There was no period of dismissal probation imposed on the supervisor. The Department Advocate noted that there were two other subjects involved in this investigation and that both negotiated pleas of the loss of 30 vacation days, restitution, adjustment of time and leave balances and one year dismissal probation. *See Disciplinary Case Nos. 2018-19268* (July 16, 2019) & *2018-19272* (still pending approval by the Police Commissioner). He mentioned that in these two cases a distinction might be made in that both subjects were seeking to retire.

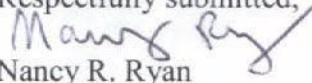
The Advocate also cited to *Disciplinary Case No. 2014-11820* (April 20, 2015) a case with similar facts to the present case, in which a twenty-four-year lieutenant arrived late on 18 occasions, but was compensated with cash overtime for time not actually worked. In that case, the Police Commissioner rejected a negotiated plea of 30 vacation days, 35 hours deduction of pensionable time and monetary restitution, and added dismissal probation to the final penalty. That case, however, involves a broader and lengthier pattern of misconduct as the respondent also pleaded Guilty to failing to submit leave of absence reports on 28 occasions where he was late or absent from his regular tour, indicating he was present "outside wire" on 21 occasions when he was not actually working and using his Department vehicle for personal reasons on 37 occasions.

While the Court cannot make any recommendation with regard to restitution, it can note that through their counsel, both Respondents have expressed a willingness to make restitution. The Court was in a position to note the demeanor of both Respondents and found them both to be credible in their testimony that they had no intent to defraud the Department concerning overtime payments. While they now know that they should not have been using their arrival time as the time they were merely in the vicinity of the office, their testimony that they had not received any

instructions on the appropriate sign in time is somewhat reinforced by the fact that one of their supervisors was employing the same method of accounting for his sign in time as they were.

While this does not excuse their misconduct, it does bear on their lack of intent to improperly receive overtime pay. The Court also has reviewed the Respondents' service records and finds they both have been evaluated highly. Based on all of the above, the Court recommends that a penalty of the loss of 30 vacation days be imposed on each Respondent.

Respectfully submitted,



Nancy R. Ryan

Assistant Deputy Commissioner Trials





POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
DETECTIVE MATTHEW SAVAGE
TAX REGISTRY NO. 926077
DISCIPLINARY CASE NO. 2018-19270

Respondent was appointed to the Department on March 1, 2000. On his last three annual performance evaluations, he received 4.5 overall ratings of "Extremely Competent/Highly Competent" for 2015, 2016 and 2017. He has received two medals for Excellent Police Duty.

[REDACTED]

Respondent has no formal disciplinary history. On December 4, 2018, Respondent was placed on Level 1 Discipline Monitoring for receiving Charges and Specifications in connection with the instant matter. Monitoring remains ongoing.

For your consideration.

Nancy R. Ryan
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
DETECTIVE RICHARD SCHOLL
TAX REGISTRY NO. 929149
DISCIPLINARY CASE NO. 2018-19271

Respondent was appointed to the Department on July 2, 2001. On his last three annual performance evaluations, he received 4.5 overall ratings of “Extremely Competent/Highly Competent” for 2015, 2016 and 2017. He has received one medal for Excellent Police Duty.

[REDACTED]

Respondent has no formal disciplinary history. On December 4, 2018, Respondent was placed on Level 1 Discipline Monitoring for receiving Charges and Specifications in connection with the instant matter. Monitoring remains ongoing.

For your consideration.

Nancy R. Ryan
Assistant Deputy Commissioner Trials